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SUBJECT: GOVERNMENT OF IRAQ TAXES: SOMETHING OLD, SOMETHING NEW,
SOMETHING BORROWED

¶1. (SBU) Summary: As businesses and individuals step up commercial activities and as oil revenues languish, the GOI is devoting more attention to other sources of revenues, particularly taxes. The GOI tax regime is partly old, based on administrative provisions dating from 1982, and partly new, with a low maximum uniform rate of 15 percent for both corporate and individual income tax, a product of the Coalition Provisional Authority. The Tax Commission is also borrowing from international best practices by negotiating bilateral tax treaties to pave the way for international investors. The age old question is still collection, painful for both tax collector and payer alike; the Commission welcomes any USG assistance on collections. The Commission is also interested in a double taxation treaty with the United States. End Summary

Tax Overview: Low and Flat

¶2. (SBU) Emboffs recently met with Taleb Muhsen Jaber, Director General, General Commission for Taxes (the Commission), Ministry of Finance, to discuss developments in taxation. With oil revenues declining, attention is increasing on other revenues that the GOI can tap. Non-oil revenues account for around five percent of total federal government revenues. Corporate and income taxes only accounted for seven percent of non-oil revenues in 2007 and would increase to a modest 10 percent under the 2009 proposed budget. However, the anticipated revenue from these sources in 2009 would be USD 577 million, nearly a four-fold increase from actual collections in 2007.

¶3. (SBU) Taleb explained that prior to 2003 the highest corporate tax rate was approximately 40%. After 2003 the tax rate was reduced to a maximum of 15% for both corporate and individual income taxes. As a general matter, Taleb thought that the post-2003 lower tax rates, enacted by the Coalition Provisional Authority, should encourage investment and encourage economic growth. Income Tax Law Number 113 of 1982 is still applicable with respect to financial issues and fines for tax infractions.

¶4. (SBU) Among the other taxes the Commission imposes are: (1) sales tax (10 percent charged to customers in "deluxe and first class hotels and restaurants); (2) real estate transfer tax (rates of 3 percent graduated to 6 percent based on the value of the property, down from 40 percent prior to 2003); (3) real estate rental tax (10 percent; 35 percent prior to 2003); and (4) vacant land tax (two percent) which is intended to encourage development of the land (farmland is exempt). Taleb reported that there is a study underway to ascertain whether and how the sales tax could be expanded to cover other areas, possibly including imports.

Collection Rates: Corporate Captives; Low Compliance by Individuals

¶5. (SBU) Taleb explained that most companies pay their taxes on time. In order to conduct business with the public sector, a company must have a certification from the Commission verifying that they have paid their taxes. Regarding individuals, Taleb estimated that the payment rate by individuals is around 25 percent to 30 percent of the potential tax due. Employers are responsible to

deduct taxes from an employee's wages. (Note: Corporate income taxes collected in 2007 totaled USD 119 million, close to the budgeted amount while individual income taxes collected were USD 27 million, only 20 percent of anticipated amount in the budget. End note).

¶6. (SBU) Embaffs asked whether the Commission has any special programs to improve tax collections, such as a large taxpayer unit. Qprograms to improve tax collections, such as a large taxpayer unit. Taleb noted that the European Union has offered training to the Commission to improve collections. He stated that he is open for assistance and advice from the US Internal Revenue Service, claiming this would be beneficial. He also offered that the Commission is surveying the public to assess its performance. (Note: The Commission's General Directions for Citizens politely declares that it "looks forward to provide you with the best services and to ensure your safe position (by protecting you against penalties due to tax avoidance.) end note.)

Corporate Taxes and Bilateral Tax Treaties: Thinking Ahead?

¶7. (SBU) The "Income Tax Guide for Corporations" (found on the Commission's website at www.iraqtax.org in English as well as Arabic) indicates that any joint-stock or limited liability company incorporated under Iraqi or other laws where the place of management or control is in Iraq is subject to the corporate income tax as an Iraqi resident person. The tax is imposed on the income of the Iraqi resident person which arises inside or outside Iraq, regardless of the place of receipt. Foreign companies that are registered or otherwise have a permanent establishment in Iraq are subject to the corporate income tax only on their income earned in Iraq.

¶8. (SBU) Taleb stated that he recognizes the need for foreign

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companies operating in Iraq to avoid double taxation of income if the company's home tax regime taxes income regardless of the place of receipt. Avoidance of double taxation of income can be addressed through tax treaties. He explained that the objective of these treaties is to attract foreign investment by facilitating the movement of capital and labor. Iraq currently has tax treaties with Iran, Syria, and Lebanon and is negotiating treaties with the Czech Republic, Oman, and Malaysia. Taleb hopes that treaties under negotiation will be concluded this year. He suggested that a bilateral tax treaty with the United States would be useful.

Individual Income Taxes: Need for Outreach

¶9. (SBU) Tax on the income of individuals starts at 3 percent for the first IQD 250,000 (USD 210) then graduates to the top rate of 15 percent for income over IQD 1,000,000 (about USD 850). The tax is assessed on the worldwide income of an Iraqi resident person and on Iraqi source income of a non-Iraqi person resident in Iraq or a non-resident Iraqi person. Exemptions to the income tax include foreign persons and companies providing assistance to Iraqis that are registered under CPA Order Number 45. (Details are found on the Commission's website: [Http://www.iraqtax.org/english/pdf/Income%20Tax%20Law%20113\(1982\)%20as%20amended%20by%20CPA%20Orders%20\(English\).pdf](http://www.iraqtax.org/english/pdf/Income%20Tax%20Law%20113(1982)%20as%20amended%20by%20CPA%20Orders%20(English).pdf)).

¶10. (SBU) Taleb, noting the difficulty with collecting individual income taxes, explained that the Commission has a public outreach program to explain its procedures. Taleb admitted there is a problem with individuals who portray themselves as intermediaries between taxpayers and the tax authorities and claim they can negotiate deals with the tax agency. These arrangements do not always work out for the best.

¶11. (SBU) Taleb stated that the information submitted by taxpayers is kept confidential and cannot be released without an order from a judge. Recently the Commission on Integrity has sought records kept by the Commission in order to combat corruption. Taleb stated their records are maintained for 10 years per state regulations on official documents.

Tax Evaders: A Second Chance

¶12. (SBU) Individuals who are suspected of avoiding taxes can be referred to the judicial system for prosecution. Taleb noted that if the defendant chooses to do so before his trial, he may settle the case with the government by paying twice the owed amount.

¶13. (SBU) Taxpayers with past-due amounts owed to the government are subject to interest charges equal to the Central Bank of Iraq interest rate. Taxpayers have a 21-day grace period to pay their taxes after the due date of the outstanding balance before being subject to interest charges.

¶14. (SBU) Taxpayers are required to file tax returns for the previous tax year by the end of the fifth month of the subsequent tax year. If the Commission believes that the taxpayer made an error on his tax return, the Commission can correct the tax return. If the taxpayer believes the correction is in error, he can appeal the correction to the Commission or a representative of the Director General. If the taxpayer receives an unfavorable reply he is allowed to appeal the decision to the tax appeals court. This court consists of a first degree judge and two Director Generals from the Ministry of Finance. If the taxpayer is still not satisfied with the results he can appeal it one level higher to another appeals court consisting of a judge of the first degree, two Ministry of Qcourt consisting of a judge of the first degree, two Ministry of Finance Director Generals, and an individual from the private sector (note: this final appeal is made to the Court of Cassation. End Note). No further appeals are allowed after a decision is rendered by this court.

¶15. (SBU) Taleb advised that the Commission has an audit and investigations unit which is tasked with investigating allegations of tax fraud by individuals and businesses. Taleb also stated the Iraqi Inspectors General have the authority to investigate individuals for violations of Iraqi tax law.

Comment

¶16. (SBU) Tax revenues in Iraq have nowhere to go but up. In a society where few have paid taxes for one reason or another, instilling a culture of compliance will take time. Withholding income at the source is a common method to help ensure payment of individual income taxes. A broader based sales tax, as Taleb suggested they are studying, could also reap rewards in the near term. Embassy will further explore Taleb's request for assistance with respect to collections.

¶17. (SBU) We also encourage Washington agencies to consider

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possible negotiations with Iraq on a double taxation treaty. Steps like this which normalize bilateral relations and improve conditions for U.S. investors will be the subject of discussions under the new bilateral Strategic Framework Agreement.
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